

REMARKS/ARGUMENTS

The Examiner's Action of September 15, 2004, has been received and reviewed by counsel for Assignee. The matters raised by the Examiner, and addressed by this response, are discussed below in the order of the Office Action.

Priority

The Examiner has requested a certified copy of the priority application. That document accompanies this response.

Section 112 Rejections

The Examiner has rejected claims 1-25 under 35 U.S.C. § 112, primarily with respect to the term "optimum" in those claims. Counsel has substantially revised the claims to overcome the 112 rejections. By this response, claims 1-25 have been canceled, and new claims 26-38 are presented. The term "optimum" has been removed from all of the claims. Counsel has substituted different phrasing regarding different versions of the software and updating of software.

Section 102 Rejections

The Examiner has rejected essentially all claims under 35 U.S.C. § 102(b) as anticipated by *Van Ryzin*, U.S. 5,909,689. That reference describes a technique by which data files used in several interconnected computers can be all updated to match the data file with the most recent date and time. As such, this reference is similar to the reference discussed as "first prior art" on page 3 of the specification.

The new claims herein are now directed toward a method for updating system software in which the network apparatus retrieves information including system component information and software version information from various components in the system. The system of *Van Ryzin* in '689 does not appear to retrieve any information about system components or system software. In Applicants' system, once the information is retrieved, a particular update module is selected for installing a different version of the system software, and then the system software is updated to the different version at each system component.

The apparatus of claims 34-38 now presented for examination include similar phrasing to distinguish this prior art.

The Examiner has also rejected some claims based on the combination of *Van Ryzin* and *Sanders*, U.S. 6,536,017. *Sanders*, however, does not provide the missing teaching. *Sanders* is directed toward programmable logic devices and translating report files to constraint files, thereby enabling the transfer of a circuit design implemented in one system to be transferred to a different system. *Sanders* does not appear to teach identifying system components and system software coupled to a network, and then making appropriate updates to that software.

All of the other claims now presented for examination, dependent claims 27-33 and 35-38, depend from the independent method and system claims 26 and 34. These dependent claims are believed allowable for at least the same reasons as the independent claims. In addition, however, the dependent claims clearly include features not shown or suggested by the references relied upon in the Action. For example, claim 28 requires that the update module include compatibility information about the hardware and software, and that this information be considered before installing the different version of the software. Claim 31 specifies a feature in which whenever a new network apparatus is connected to the network, the method for updating system software is performed. Claim 33 provides the feature of displaying an explanation statement to a user to allow the user to decide whether to update the system software. None of these features appear to be taught by the references.

For at least these reasons, the claims now presented for examination are believed to patentably distinguish the cited references and to comply with Section 112.

If the Examiner believes a telephone conference would expedite prosecution of this application, he is invited to telephone the undersigned at 650-326-2400.

Respectfully submitted,



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